

**61.640 Death before retirement -- Beneficiary's option -- Taxable distributions.**

- (1) If an employee who is of normal retirement age or greater is in the active employment of a participating agency, or on official leave from the agency, if the leave has been granted in accordance with the policy of the state Personnel Cabinet, with service credit of forty-eight (48) months or more, at least twelve (12) of which are current service, or if an employee of less than normal retirement age is in the active employment of a participating agency or on official leave from the agency, if the leave has been granted in accordance with the policy of the state Personnel Cabinet, with service credit of sixty (60) months, at least twelve (12) of which are current service, dies at any time before the first retirement allowance payment has been issued by the State Treasurer and has on file at the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.
- (2) If a member not in the active employment of a participating agency, nor on official leave from the agency, with the service and age prescribed in KRS 61.559(2), dies before the first retirement allowance payment has been issued by the State Treasurer and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.
- (3) If a member, not in the active employment of a participating agency nor on official leave from the agency, with twelve (12) or more years of service credit at least one (1) of which is current service, dies at any time before the first retirement allowance payment has been issued by the State Treasurer and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary

may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

- (4) An alternative calculation of benefits payable to the beneficiary under subsection (1), (2), or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4) then reduced by fifty percent (50%), and the actuarial equivalent payable for sixty (60) months certain and one hundred twenty (120) months certain and the actuarial equivalent refund shall be determined.
- (5) If the member, subject to subsection (1), (2), (3), or (4) of this section had on file in the retirement office a written designation of multiple beneficiaries, his estate, trust, or trustee, the multiple beneficiaries by consensus, the administrator, or executor of the estate, or trustee may elect to receive the actuarial equivalent to the benefit allowable under subsections (1), (2), (3), or (4) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund.
- (6) Actuarial equivalent refund. The beneficiary may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent to the amount payable under KRS 61.635(2) for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the multiple beneficiaries by consensus, trustee, executor, or administrator of the estate may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2), assuming the beneficiary's age to be the same as the member's for a period of sixty (60) months.
- (7) In the case of a single beneficiary, who is a person, the highest monthly benefit determined under subsection (1), (2), (3), (4), or (6) of this section for a life annuity or for payments for sixty (60) months certain or for payments for one hundred twenty (120) months certain or for the actuarial equivalent refund or for the Social Security adjustment option shall be tendered to the beneficiary. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), (5), or (6) of this section for payments for sixty (60) months certain or one hundred and twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries, trustee, administrator, or executor of the estate.
- (8) Payments of taxable distributions made pursuant to this section shall be subject to state and federal income tax as appropriate.

**Effective:** July 13, 2004

**History:** Amended 2004 Ky. Acts ch. 36, sec. 22, effective July 13, 2004. -- Amended 1998 Ky. Acts ch. 154, sec. 68, effective July 15, 1998. -- Amended 1996 Ky. Acts ch. 167, sec. 16, effective July 15, 1996. -- Amended 1994 Ky. Acts ch. 485, sec. 20, effective July 15, 1994. -- Amended 1992 Ky. Acts ch. 240, sec. 39, effective July 14, 1992. -- Amended 1986 Ky. Acts ch. 90, sec. 19, effective July 15, 1986. -- Amended

1982 Ky. Acts ch. 423, sec. 10, effective July 15, 1982. -- Amended 1976 Ky. Acts ch. 321, sec. 28. -- Amended 1974 Ky. Acts ch. 128, sec. 25. -- Amended 1972 Ky. Acts ch. 116, sec. 47. -- Amended 1966 Ky. Acts ch. 35, sec. 12. -- Amended 1964 Ky. Acts ch. 86, sec. 6. -- Amended 1962 Ky. Acts ch. 58, sec. 18. -- Amended 1960 Ky. Acts ch. 165, Part II, sec. 13. -- Created 1956 Ky. Acts ch. 110, sec. 27.